SUBCOMMITTEE #3:
Health & Human Services

Chair, Senator Mark Leno

Senator Elaine K. Alquist
Senator Roy Ashburn

April 15, 2010

9:30 a.m. *or*
Upon Adjournment of Session
Room 4203
(John L. Burton Hearing Room)

(Diane Van Maren)

PLEASE NOTE:
Only those items contained in this agenda will be discussed at this hearing. Issues will be discussed in the order as noted in the Agenda unless otherwise directed by the Chair. *Please* see the Senate File for dates and times of subsequent hearings.

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Thank you.

I. Department of Public Health

A. OVERALL BACKGROUND

Purpose of the Department. The Department of Public Health (DPH) delivers a broad range of public health programs. Some of these programs complement and support the activities of local health agencies in controlling environmental hazards, preventing and controlling disease, and providing health services to populations who have special needs. Others are solely state-operated programs, such as those that license health care facilities.

According to the DPH, their goals include the following:

- ✓ Promote healthy lifestyles and appropriate use of health services
- ✓ Prevent disease, disability and premature death
- ✓ Protect the public from unhealthy and unsafe environments
- ✓ Provide and ensure access to critical public health services
- ✓ Enhance public health emergency preparedness and response

The department comprises five public health centers, as well as the Health Information and Strategic Planning section, and the Public Health Emergency Preparedness Program. The five public health centers are as follows:

(1) Center for Chronic Disease Prevention and Health Promotion;
(2) Center for Environmental Health;
(3) Center for Family Health;
(4) Center for Health Care Quality; and
(5) Center for Infectious Disease.

Summary of Funding for the Department of Public Health. The budget proposes expenditures of $3.3 billion ($304 million General Fund) for the DPH as noted in the Table below. Most of the funding for the programs administered by the DPH comes from a variety of federal funds, including grants and subventions for specified areas (such as water, emergency preparedness and Ryan White CARE Act funds). Many programs are also funded through the collection of fees for specified functions, such as for health facility licensing and certification activities. Several programs are funded through multiple sources, including General Fund support, federal funds and fee collections.

Of the amount appropriated, about $637 million is for state operations and $2.706 billion is for local assistance. The budget for 2010-11 reflects a net decrease of $99.8 million as compared to the revised 2009-10 budget.

Summary of Expenditures for Department of Public Health	2010-11
Public Health Emergency Preparedness	**$104,615,000**
Public and Environmental Health	**$3,067,513,000**
Chronic Disease Prevention and Health Promotion	292,779,000
Infectious Disease	650,846,000
Family Health	1,700,605,000
Health Information and Strategic Planning	25,495,000
County Health Services	21,132,000
Environmental Health	376,656,000
Licensing and Certification Program	**$171,071,000**
Licensing and Certification of Facilities	158,731,000
Laboratory Field Services	12,340,000
Total Program Expenditures	**$3,343,199,000**
Funding Sources	
General Fund	$304,902,000
Federal Funds	$1,753,323,000
Genetic Disease Testing Fund	$117,813,000
Licensing and Certification Fund	$86,523,000
WIC Manufacturer Rebate Fund	$329,901,000
AIDS Drug Assistance Program Rebate Fund	$211,958,000
Water Security, Clean Drinking Water, Beach Protection Fund	$73,487,000
Safe Drinking Water Account of 2006	$21,207,000
Childhood Lead Poisoning Prevention Fund	$22,528,000
Radiation Control Fund	$22,931,000
Food Safety Fund	$6,877,000
Reimbursements	$183,752,000
Other Special Funds (numerous)	$207,997,000
Total Funds	**$3,343,199,000**

B. Vote Only Issues (Pages 4 through 17)

1. Umbilical Cord Blood Banking

Budget Issue. The DPH requests an increase of $471,000 (one-time federal grant funds) to support the collection and storage of publicly donated and ethnically diverse umbilical cord blood in California for use in transplantation. These grant funds are provided through a Congressional Special Initiative grant award and can only be used for this purpose. This is one-time funding and is to be expended in 2010-11.

Of the total federal grant amount, $120,000 would be used to engage a contractor to (1) develop a "Request for Proposal" for the cord blood bank; (2) oversee all implementation and evaluation activities; and (3) monitor the contract with the established cord blood bank. The $120,000 amount is the maximum the federal grant allows for this purpose. According to the DPH, this contractor will consult with the federal Health Resources and Services Administration (HRSA) on the following:

- Developing cord blood collection protocols;
- Assisting with reviewing the contract bids;
- Implementing the contract agreement with the selected cord blood bank;
- Overseeing and managing the grant activities;
- Serve as the subject matter expert for the DPH;
- Providing status reports to HRSA as required; and
- Developing and implementing the grant performance evaluation.

The remaining amount of $351,240 would be used to contract with a selected cord blood bank to collect, process, and store the cord blood from minority populations to diversify the national inventory of umbilical cord blood stem cell units that are available for transplantation.

The DPH states that the cord blood bank's collection and storage fee is a one-time fee inclusive of long-term storage. This is consistent with existing federal requirements. The DPH states that given the high cost associated with cord blood banking, the grant award will only enable collecting a limited number of cord blood units by the selected cord blood bank.

Background—Summary of State and Federal Law. AB 34, Statutes of 2007 (Portantino), established the Umbilical Cord Blood Collection Program for the purpose of collecting and storing umbilical cord blood for use in research and to add genetically diverse cord blood units to the national inventory. It requires, among other things, that any funds available for these purposes to be deposited into the Umbilical Cord Blood Collection Program Fund.

The federal Stem Cell Therapeutic and Research Act of 2005 established a national umbilical cord blood network and authorized funding to collect and maintain cord blood stem cells for the treatment of patients and for research. As of 2009, there are nine banks contracted by the federal Health Resources and Services Administration (HRSA) to collect cord blood for the national inventory. This includes StemCyte, Incorporated located in Arcadia, California.

Subcommittee Staff Comment and Recommendation--Approve. The proposal is consistent with state and federal law. It is recommended for approval.

2. Genetic Disease Testing Program (Prenatal Program and Newborn Program)

Budget Issue. The DPH proposes total expenditures of $95.2 million (Genetic Disease Testing Fund) for local assistance. This reflects a net increase of $472,000 (Genetic Disease Testing Fund) as compared to the current-year. This program is fully fee supported.

The proposed expenditures for each of the programs are outlined below.

Program & Components	Total for 2010-11	Adjustment Over CY
Prenatal Screening:		
Contract Laboratories	$5,090,000	$0
Technologic Support	$13,146,000	$165,000
Systems Development, Equipment & Testing	$6,485,000	$0
Follow-Up Costs	$6,110,000	$1,132,000
Prenatal Diagnostic Centers	$17,426,000	-$765,000
Result Reporting & Fee Collection	$1,310,000	$0
TOTAL for Prenatal	**$49,567,000**	**$532,000**
Newborn Screening:		
Contract Laboratories	$7,429,000	$0
Technologic Support	$23,497,000	$47,000
Systems Development, Equipment & Testing	$4,222,000	$0
Follow-Up Costs	$5,834,000	-$193,000
Newborn Diagnostic Centers	$3,366,000	$86,000
Result Reporting & Fee Collection	$1,290,000	$0
TOTAL for Newborn	**$45,638,000**	**-$60,000**
Total for Genetic Disease Testing Program	**$95,205,000**	**$472,000**

As noted in the Table above, the Prenatal Screening Program reflects net increased costs of $532,000 (Genetic Disease Testing Fund). The DPH states most of these increased expenditures are attributable to costs associated with providing additional testing, follow-up, and diagnostic services associated with the "First Trimester" test expansion implemented in 2009. With the addition of the First Trimester test, women will be able to receive screening services in both trimesters (traditionally it has occurred in the second trimester).

Expenditures for the Newborn Screening Program remain relatively stable and reflect no new policy issues.

Background—Genetic Disease Testing Program. The Genetic Disease Testing Program consists of two programs—the Prenatal Screening Program and the Newborn Screening Program. Both screening programs provide public education, and laboratory and diagnostic clinical services through contracts with private vendors meeting state standards. Authorized follow-up services are also provided as part of the fee payment. The programs are self-supporting on fees collected from screening participants through the hospital of birth, third party payers or private parties using a special fund—Genetic Disease Testing Fund.

The *Prenatal Screening Program* provides screening of pregnant women who *consent* to screening for serious birth defects. The fee paid for this screening is $162 dollars. Most prepaid health plans and insurance companies pay the fee. Medi-Cal also pays it for its enrollees.

There are three types of screening tests to pregnant women in order to identify individuals who are at increased risk for carrying a fetus with a specific birth defect. All three of these tests use blood specimens, and generally, the type of test used is contingent upon the trimester.

Women who are at high risk based on the screening test results are referred for follow-up services at State-approved "Prenatal Diagnosis Centers". Services offered at these Centers include genetic counseling, ultrasound, and amniocentesis. Participation is voluntary.

The *Newborn Screening Program* provides screening for all newborns in California for genetic and congenital disorders that are preventable or remediable by early intervention. The fee paid for this screening is $103 dollars. Where applicable, this fee is paid by prepaid health plans and insurance companies pay the fee. Medi-Cal also pays it for its enrollees.

The Newborn Screening Program screens for 76 conditions, including certain metabolic disorders, PKU, sickle cell, congenital hypothyroidism, non-sickling hemoglobin disorders, Cystic Fibrosis and many others. Early detection of these conditions can provide for early treatment which mitigates more severe health problems. Informational material is provided to parents, hospitals and other health care entities regarding the program and the relevant conditions and referral information is provided where applicable.

Repayment of Previous General Fund Loan. The Genetic Disease Testing Fund received two loans from the General Fund in past years in order to maintain solvency. The outstanding principle balance is $4.24 million (General Fund). A loan repayment of $3 million is reflected for 2009, and another payment of $1.2 million is reflected in 2010-11.

Subcommittee Staff Comment and Recommendation--Approve. The budget reflects no new policy issues and is consistent with past expenditure calculations. It is recommended for approval.

3. Blood Specimen Repository—Need for Upgrade

Budget Issue. The DPH is requesting an increase of $677,000 ($576,000 Genetic Disease Testing Fund and $101,000 Birth Defects Monitoring Fund) to fund six State positions (two-year limited-term) to redesign and maintain the central blood repository systems for newborn and prenatal blood specimens as collected under the Genetic Disease Testing Program.

The DPH states these resources are needed to (1) upgrade the storage and retrieval systems for the stored blood specimens; (2) develop regulations pertaining to accessing and sharing of these specimens; and (3) meet the growing volume of blood specimens that have been collected since 1982. California's blood specimen bank is very unique. No other State or international effort approaches its scale in terms of scale, diversity, quality of specimens and number of historic specimens.

The six requested positions include the following:

- Two Research Scientist III, Epidemiologists. These positions will oversee ongoing research for program development that is conducted using the specimen repository to develop, modify and evaluate the Genetic Disease Testing Program. In addition, these positions will develop a comprehensive research request tracking protocol for the Newborn Screening Program specimens.

- Two Research Scientist II, Epidemiologists. These positions will (1) conduct record linkage for the programs' data for using specimens in the repository; (2) update procedures for conducting specimen pulling, shipping, tracking, and return activities; and (3) provide assistance as needed in any other protocol development.

- Laboratory Assistant. This position will provide assistance for locating, pulling, shipping and maintaining the inventory for the Newborn Screening Program specimens needed for program development and evaluation. This position will track workload and processing time on specimen requests to be used in reviewing and analyzing future workload needs.

- Associate Government Program Analyst. This position will be responsible for all administrative functions as they pertain to the re-design and maintenance of an updated central repository. Specifically, this position will (1) design reports for management on infrastructure-related activities; (2) review and analyze data to assess ongoing workload needs for the programs; and (3) provide assistance in reviewing existing laws, policies and procedures on specimen banks and providing feedback as applicable.

Background—Genetic Disease Testing Program and Blood Repository. The Genetic Disease Testing Program consists of the Newborn Screening Program and the Prenatal Screening Program. The program screens about 560,000 newborns and 350,000 pregnant women each year for over 80 genetic and congenital disorders. These screening programs provide screening tests, follow-up, and early diagnosis of disorders that in many cases prevent adverse outcomes, minimize the clinical effects of disorders, and improve health outcomes.

The DPH states that since inception of the Newborn Screening Program in 1982, they have banked blood specimens from screened newborns in freezer storage. This repository, located in Richmond, houses over 15 million specimens and represents an entire generation of Californians.

Additionally, existing State statute requires the DPH to store, analyze and share the Prenatal Screening Program blood specimens for research purposes as of 2003. This repository of frozen prenatal blood specimens is in Long Beach. About 500,000 blood specimens are banked thus far, with another 100,000 prenatal specimens added each year.

These newborn and prenatal specimen banks have been used for a number of purposes. These include: (1) the timely evaluation, improvement, and expansion of these programs; (2) the filling of individual requests of California families with unexplained deaths or health impairments; (3) the provision of evidence for litigation; and (4) understanding of both the prenatal causes of many diseases as well as the genetic etiology of markers found in newborn blood spots, through various collaborative research projects.

Background—Special Funds. SB 1555 (Speier), Statutes of 2006, authorized a $10 fee to be added to the existing fee for prenatal screening to be used for prenatal blood specimen repository functions. Further, existing fees collected under the newborn program can also be used for this purpose.

Subcommittee Staff Comment and Recommendation--Approve. The request makes good policy sense and there is no impact on the General Fund. Sufficient special fund support is available for this purpose. It is recommended for approval.

4. New Safety Requirements for Public Swimming Pools and Spas

Budget Issue. The DPH requests an increase of $402,000 (Recreational Health Fund) to support two State positions (three-year limited-term) and a contract of $151,000 to develop educational materials related to public swimming pools and spas as directed in AB 1020 (Emmerson and Ma), Statutes of 2009.

Through this new program, the DPH will participate in training personnel to enforce the state pool and spa law, and participate in educating pool owners, construction companies, service companies, and the general public about the dangers of drowning and entrapment.

The State staff—two Staff Environmental Scientists—would conduct various activities, including the following:

- Work with various stakeholders to develop guidance on the definition of unblockable drains in state and federal law.
- Work with various organizations on recommended practices and standards to prevent entrapment. Adopt specified standards as appropriate.
- Interact with national testing organizations and manufacturers on approval of performance standards and testing protocol for pool operators and Local Health Jurisdictions.
- Work with Local Health Jurisdictions and pool and spa organizations to assist with development of forms and public notification of the new law and its compliance dates.
- Develop compliance options for pool contractors and owners of public pools and spas.
- Provide technical assistance to Local Health Jurisdictions and the pool and spa industry to eliminate public health and safety hazards related to equipment design, use, and operation.
- Respond to public inquiries on safe and healthy swimming and bathing activities.
- Conduct investigations of entrapment incidents and determine if additional public education is needed or new physical entrapment measures are needed.

The DPH intends to contract with a public safety organization to develop educational materials, technical bulletins, public service announcements, and a training program. The consultant will also be involved to evaluate anti-entrapment devices and provide training on the enforcement of the new standards to local government.

Background—Summary of AB 1020, Statutes of 2009. This enabling legislation, based on federal law enacted in 2007, contains the following key provisions:

- Requires all newly constructed and existing public swimming pools to be equipped with (1) at least two main drains per pump; and (2) one or more anti-entrapment devices or systems as specified.
- Requires DPH to train personnel to enforce the law.
- Requires DPH to educate the public about these requirements and about drowning prevention.

- Requires DPH to issue a form for use by an owner of a public swimming pool to indicate compliance.
- Creates a $6 annual fee on public swimming pool owners for the DPH to defy costs for carrying out specified requirements.

There are about 80,000 public pools in California. The $6 fee on permitted recreational water venues (public pools and spas) is anticipated to generate about $480,000 in revenues. Local health departments will collect the fee and may retain up to $1 of the fee to cover their administrative costs of collecting the fee. The remaining amount will be expended on the program as noted. The fee is scheduled to sunset on January 1, 2014.

Subcommittee Staff Comment and Recommendation--Approve. The proposal is consistent with state and federal law, and no issues have been raised. It is recommended for approval.

5. Convert Information Technology Contracts to State Support

Budget Issue. The DPH is requesting to establish seven State positions—two Systems Software Specialist III's and five Staff Information Systems Analysts— in lieu of existing contracts to conduct information technology work. A net savings of $52,000 (various special funds) is reflected for this proposal.

This DPH request is in response to recent rulings by the State Personnel Board. Specifically, the Service Employees International Union (SEIU) challenged the DPH regarding their use of information technology contracts in lieu of State personnel. As such, the DPH came forward with the above proposal to shift from the use of contractors to permanent state civil service classifications.

It should be noted that the DPH has been phasing-in State civil service positions over a period of time (commencing in 2008-09).

Subcommittee Staff Comment and Recommendation--Approve. This proposal is consistent with the State Personnel Board's ruling. It is recommended to approve it. There is no affect to the General Fund.

6. Infant Botulism (BabyBIG)

Budget Issue. The DPH is requesting an increase of $3.8 million (Infant Botulism Funds) in 2010-11 to begin the several year process to manufacture the next lot of BabyBig. The next lot will be needed in about four to five years.

The DPH states that programmatic efforts required to make the next lot of BabyBig will include: (1) moving the freeze-drying and vialing from Cangene to a replacement federal FDA approved contractor; (2) developing a new toxoid to boost the plasma donors to replace the present 40 year-old and now degraded toxoid; (3) obtaining and report to federal FDA on the stability and potency testing results from the current lot production; (4) continuing the development of faster diagnostics to enable more efficient and accurate use of BabyBig; and (5) fulfilling the statutory mandate to identify sudden infant death cases that result from infant botulism poisoning.

The $3.8 million appropriation would be used for the following consultant and professional services:

- Public Health Foundation Enterprises at $990,000. This contract is for technical and logistical support.
- Emergent BioSolutions, Incorporated at $825,000. This is for new toxoid development.
- Cato Research, Limited at $550,000. This is for regulatory services oversight and project oversight.
- Cato Research, Limited at $279,672. This is for regulatory activities associated with vial transfer.
- Cato Research, Limited at $150,000. This is for deliverables associated with regulatory support.
- Battelle Memorial Institute at $400,000. This is for potency testing.
- Los Alamos National Laboratories at $325,000. This is for new assay development.
- Unknown Contractor at $200,000. This will be for a new freeze-drying facility.
- Baxter Healthcare Corporation at $70,990. This is for stability testing.
- FFF Enterprises at $39,438. This is for distribution.

Background—Infant Botulism. The DHS has an "orphan drug" license from the federal FDA for the Botulism Immune Globulin Intravenous (Baby BIG) which is the only antidote available for infant botulism in the world for infants. The licensure was provided by the federal FDA in 2003 but prior to that, the DHS provided the drug for many years. BabyBIG is made by harvesting and bottling special antibodies from the blood plasma of volunteer donors.

Without treatment, affected infants spend weeks to months in the hospital, much of that time in intensive care. About 100 cases occur in the United States per year. More than one-third

of the cases occur in California. In California, BabyBig saves Medi-Cal about $1.5 million annually. BabyBig is distributed nationwide.

Subcommittee Staff Comment and Recommendation--Approve. No issues have been raised regarding this proposal. It is recommended for approval.

7. Transfer Hearing Officer and Office Technician Positions

Budget Issue. The DPH is requesting to transfer $376,000 ($231,000 General Fund) and 3.5 positions from their Office of Legal and Office of Regulations to the Department of Health Care Services (DHCS) to conduct the involuntary "Transfer or Discharge Appeals" and "Refusal to Readmit" hearings. The DPH does not have the authority to conduct these hearings under federal law. The DHCS does have authority since it is the State's single State agency recipient of Medicaid (Medi-Cal) funding. These hearings are required by federal Medicaid statutes, not State licensing statutes.

This is a technical "clean-up" issue from when the DPH was split out from the Department of Health Services in 2007.

Subcommittee Staff Comment and Recommendation--Approve. No issues have been raised regarding this proposal. It is recommended for approval.

8. Tissue Bank Licensing Program

Budget Issue. The DPH is requesting an increase of $164,000 (Tissue Bank Special Fund) for two State staff—an Examiner I and a Program Technician—to meet workload demands related to tissue bank applications, renewal applications, on-site inspections and investigations to assure that human tissue used for treatment of patients is safe.

There are 522 facilities currently licensed as tissue banks. Existing statute requires the DPH to assure that tissue is collected, tested, processed, stored and distributed in a manner that will prevent the transmission of infectious disease, contamination, or failure of the tissue and donors to have provided necessary consent.

The DPH states that since 2004 there has been rapid growth in newly licensed tissue banks and nearly doubling the number of applications received for first time licensees. This is due to increased use of other tissue such as reproductive (semen, ova, blastula production by in-vitro fertilization) and the introduction of progenitor or stem cells from bone marrow, adipose or sources other than peripheral blood, human donor milk, veins, arteries, cells, such as islet cells for the development of insulin and manufactured skin.

The program currently has three authorized positions and approval of this request will provide for a total of five positions. The positions are fully fee supported.

Subcommittee Staff Comment and Recommendation--Approve. No issues have been raised regarding this proposal. It is recommended for approval.

9. Valley Fever

Budget Issue. The DPH proposes to expend $1 million (General Fund) in 2010-11 for Valley Fever research and related activities. This is a proposed continuation of a one-time only appropriation made in 2009-10.

Existing law provides for the DPH to contract with the Valley Fever Vaccine Project, a non-profit organization, to distribute grants from funds appropriated by the Legislature for Valley Fever research to develop a vaccine. The Legislature has provided one-time appropriations in various fiscal years, including the following:

- $700,000 in 1997-98
- $3 million in 1998-99
- $500,000 in 2001-02
- $350,000 in 2002-03
- $750,000 in 2003-04
- $1 million in 2009-2010

Valley Fever. Valley Fever is an illness that usually affects the lungs. It is caused by a fungus called Coccidioides. Coccidioides lives in the dirt. The spores become airborne when the uncultivated soil is disturbed and are inhaled. It is found in portions of the Sacramento Valley, all of the San Joaquin Valley, desert regions and southern portions of California, much of the Southwest, Northern Mexico and some areas of Central America.

About 150,000 infections occur each year in the United States, although over 60 percent of these infections do not produce symptoms. For some, it may feel like a cold or the flu. For those who become sick, pneumonia-like symptoms, requiring medication and bed rest can result. For those severely affected, meningitis can result. Valley Fever is diagnosed through an antibody blood test or culture.

Subcommittee Staff Comment and Recommendation--Deny. Due to severe fiscal constraints and the need to maintain core programs, it is recommended to *delete* the proposed augmentation of $1 million (General Fund) for 2010-11 for this project.

Donations, rotary club sponsorships, foundation funds and various fund-raising efforts have been used to support the Valley Fever Vaccine Project and their research efforts.

10. State Registrar: Limited-Term Positions

Budget Issue. The DPH is requesting an increase of $478,000 (Health Statistics Special Fund) to fund eight State positions—Program Technicians (two-year limited-term)—to support base vital records operations.

The DPH states that temporary help and overtime are presently being used to meet workload needs and it would be more efficient to utilize two-year limited-term positions.

The DPH states these resources are needed to close the current gap between staffing and workload that has resulted in extended processing times for certified copies and of vital records. Current processing times do not meet national averages which the DPH contends results in personal hardships to people who need their records for military deployment, medical emergencies or to avoid financial hardship.

These positions are to reduce the processing time for issuing certified copies of vital records from an 18-week processing time to about 10 weeks.

Background—State Registrar of Vital Statistics. The DPH is responsible for administering and maintaining California's birth, death fetal death, and marriage records in perpetuity. The DPH has provided the following key statistics:

- Currently maintain 45 million records.
- Registers about 1 million new records each year.
- Issues 3.5 million certified copies of vital records annually.

Subcommittee Staff Comment and Recommendation-- Approve. The DPH has provided detailed workload information for the positions and no issues have been raised. The Health Statistics Special Fund has sufficient to fund these positions. The fund is supported by fees paid by the public for copies of their vital records.

11. Trailer Bill Language to Codify the DPH Vacancy Report

Budget Issue and Subcommittee Staff Recommendation. In the Budget Act of 2007, the Legislative Analyst's Office (LAO) recommended for the Legislature to adopt "Supplemental Report Language" for the Department of Public Health (DPH) to provide the LAO and the fiscal committees of the Legislature with an annual vacancy report by *no later than January 20 of each year*. The purpose of this report was to serve as a tool for monitoring vacancies within the DPH and to facilitate annual budget discussions.

The DPH did provide the vacancy report in 2008 and 2009.

The DPH did not provide the vacancy report for 2010 until an inquiry was sent by the Subcommittee. Subcommittee staff was informed that since the report was crafted under Supplemental Report Language it was not deemed to be required. It took two more inquiries to receive the report, provided on April 12th.

Therefore, it is recommended to adopt uncodified trailer bill language to require the DPH to annual provide this information. The proposed trailer bill language is shown below. This language is identical to the previously adopted Supplemental Report Language.

> "No later than January 20, the Department of Public Health (DPH) shall annually provide a vacancy report effective as of December 1 of the previous calendar year to the Joint Legislative Budget Committee and the chairs of the fiscal committees in both houses. This report shall identify both filled and vacant positions within the DPH by center, division, branch and classification."

C. Issues for Discussion

1. AIDS Drug Assistance Program (ADAP) (Pages 18 to 24)

Budget Issues. The DPH proposes total expenditures of $462.1 million ($158.3 million General Fund, $210.9 million ADAP Rebate Fund, and $92.9 million federal funds) for ADAP. This reflects a *net* increase of $42.2 million (*increase* of $87.5 million General Fund and a *decrease* of $45.2 million ADAP Rebate Fund).

The Table below provides a detailed summary of each ADAP component.

Table: Detailed Comparison of ADAP Adjustments as proposed in January

ADAP Local Assistance Components	2009-10 Revised January	Budget Year	Difference
Basic Prescription Costs	$405,297,000	$456,950,000	$51,653,000
Eliminate Services to Jails	0	-$10,889,000	-$10,889,000
Subtotal of Prescription Costs	**$405,297,000**	**$446,061,000**	**$40,764,000**
Basic Pharmacy Benefit Manager	$12,966,000	$14,782,000	$1,816,000
Administrative Reduction from 2009 (PBM)	-$500,000	-$500,000	--
Eliminate Services to Jails	0	-348,000	-$348,000
Subtotal PBM Operations	**$12,466,000**	**$13,934,000**	**$1,468,000**
TOTAL Drug Expenditures	**$417,763,000**	**$459,995,000**	**$42,232,000**
Local Health Officers: Administration of Enrollment & Eligibility	$1,000,000	$1,000,000	--
Medicare Part D Premiums	$1,000,000	$1,000,000	--
Tropism Assay (for clinical indication)	$133,000	$133,000	--
TOTAL Support and Administration	**$2,133,000**	**$2,133,000**	--
TOTAL EXPENDITURES	**$419,896,000**	**$462,128,000**	**$42,232,000**
General Fund	**$70,849,000**	**$158,311,000**	**$87,462,000**
Drug Rebate Funds	**$256,120,000**	**$210,890,000**	**-$45,230,000**
Federal Funds	**$92,927,000**	**$92,927,000**	**--**

There are *seven issues* regarding ADAP as follows:

- **A. Prescription Expenditure Increase.** The basic prescription expenditure is estimated to increase by $51.6 million (total funds), prior to the Administration's proposed adjustment for elimination of funding to certain counties for incarcerated individuals. The ADAP states that about 88 percent of drug expenditures are for anti-retroviral drugs.

  The Office of AIDS uses a linear regression model with a 95 percent confidence level that uses actual data from January 2006 through July 2009. This is the same model used to project ADAP expenditures as done in 2009.

The Office of AIDS states there are two key reasons for the increases in prescription drug expenditures. First, drug costs are increasing, including anti-retrovirals. Second, caseload has also increased from 35,611 clients in 2008 to about 37,146 clients for 2010-11 (estimated at January), or an increase of 1,535 people over about an 18-month period. The May Revision will provide an update on estimated drug expenditures and client caseload.

- **B. Reduction of $11.2 million to Discontinue ADAP in Jails.** As discussed in Special Session (our January 26th hearing), the Office of AIDS proposes a reduction of $11.2 million ($9.5 million General Fund and $1.7 million in lost ADAP Rebate Fund) by eliminating funding for county jails effective as of July 1, 2010.

  The Administration states that the $9.5 million (General Fund) saved from this action would be *invested* within the ADAP to assist in meeting State expenditures in 2010-11. They note that Local Health Jurisdictions are responsible for inmate care in jails.

  The Office of AIDS administratively began funding county jails for inmates needing AIDS anti-retroviral drugs in 1994 due to the increasing fiscal impact on Local Health Jurisdictions in meeting their mandate to provide medical services to their incarcerated populations. Presently, thirty-six counties receive funding from the State to serve incarcerated individuals in 44 jails, or about 2,027 people.

  The Office of AIDS states the *existing* process for reimbursing these 36 counties is as follows:

  1. Jail pharmacy submits claim of $100 (drug cost) to Pharmacy Benefit Manager.
  2. Pharmacy Benefit Manager submits invoice of $110.05 for payment to State ADAP. This invoice consists of $100 drug cost + $6.00 transaction fee and $4.05 pharmacy dispensing fee.
  3. State ADAP pays Pharmacy Benefit Manager $110.05.
  4. Pharmacy Benefit Manager reimburses Jail pharmacy at $104.05 (drug cost and pharmacy dispensing fee).
  5. State ADAP invoices drug manufacturer $100, and the drug manufacturer pays State a drug rebate of $32 (average rebate for ADAP jail clients) to ADAP.

  The Office of AIDS notes that five counties—San Francisco, Santa Clara, San Diego, Contra Costa and Los Angeles— support their own jail programs. Santa Clara County is able to access 340b federal pricing through their county hospital (Valley Medical Center). As such, other counties may be able to establish relationships through their Local Health Jurisdictions to access this low-cost pricing via hospitals or applicable clinics.

- **C. ADAP Rebate Fund.** Drug rebates constitute a significant part of the annual ADAP budget. This special fund captures all drug rebates associated with ADAP, including *both* mandatory (required by federal Medicaid law) and *voluntary* supplemental rebates (additional rebates negotiated with 14 drug manufacturers through ADAP Taskforce).

  Generally, for every dollar of ADAP drug expenditure, the program obtains 46 cents in rebates. This 46 percent level is based on an average of rebate collections (both "mandatory" and "supplemental" rebates).

  It should be noted the federal Patient Protection and Affordable Care Act, signed by President Obama in March, makes changes to the federal *mandatory* Medicaid rebate calculation which *may* impact ADAP. Specifically, the federal Medicaid rebate calculation was increased for *both* brand name drugs (from 15.1 percent to 23 percent of "average manufacturer price"), and generic drugs (from 11 percent to 13 percent), effective as of January 1, 2010 (retroactive). The Office of AIDS notes they are *seeking additional information* regarding the increased rebates under Medicaid to discern how ADAP may be affected.

  In addition, California and several other large States negotiate additional supplemental rebates from manufacturers of anti-retroviral drugs through the ADAP Taskforce. The ADAP Taskforce will be meeting in early May to encourage manufacturers of anti-retroviral drugs to implement price freezes and encourage additional supplemental rebates. These negotiations should be helpful.

  The Office of AIDS will update the ADAP Rebate Fund projections at May Revision, including addressing the potential for increased rebates due to the new federal Patient Protection and Affordable Care Act, as well as discussions regarding supplemental rebates.

  If ADAP Rebate Fund revenue is increased, General Fund support may be offset.

- **D. Medicare Part D and "True-Out-Of-Pocket (TrOOP).** California's ADAP interacts with the federal Medicare Part D drug benefit, implemented in 2006. The income level and assets of federal Medicare Part D enrollees determines the level of prescription assistance they receive under the federal program. The ADAP is the payer of last resort and serves as a *wrap-around* for enrolled clients because it is cost-beneficial to the State.

  A Medicare Part D enrollee's TrOOP spending— a person's prescription payment obligation during the Medicare Part D coverage gap, or "donut hole"—determines how one advances through the various Part D coverage levels. This rule typically leads to ADAP clients (who are also in Medicare Part D) to remain "stuck" in the Part D coverage gap, and thus shifting more to ADAP coverage for this period.

  The new federal Patient Protection and Affordable Care Act allows for ADAP expenditures to count towards a person's "TrOOP effective as of January 1, 2011. As

such federal Medicare Part D coverage will provide more support, and ADAP will experience savings from this action.

The Office of AIDS states the May Revision will reflect an adjustment for this good federal news, and that a small amount of General Fund savings is likely (possibly $1 million to $2 million or so).

E. Update on Ryan White HIV/AIDS Federal Funding. In April, the federal HRSA informed the DPH of California's award of federal Ryan White HIV/AIDS grant funds. The table below provides a summary.

Component	Purpose	Federal Amount	Increase
AIDS Drug Assistance	ADAP—drug expenditures	$98,809,000	$4,705,000
Base	HIV Care	$34,685,000	$692,000
Minority AIDS Initiative	Local Health Jurisdictions	$936,000	$207,000
Emerging Communities	HIV Care	$175,000	$10,000
TOTAL		$134,605,000	$5,614,000

As noted in the table, the ADAP is to receive an increase of $4.7 million (federal funds) for 2010-11. The Office of AIDS will account for this change at the May Revision.

F. Office of AIDS Request for Application for Pharmacy Benefit Manager (PBM). On March 26, the Office of AIDS released a Request for Proposal (RFP) to provide pharmacy services and claims processing for the ADAP. The existing PBM contract will be expiring in June 30, 2010.

The contract term in the RFP would provide for a 3-year term, with an option of two one-year extensions. According to the RFP, the notice of intent to award is to be made by May 20, 2010. The Office of AIDS has modified some of the administration overhead provisions and anticipates some savings from these actions.

The Office of AIDS should provide an update regarding any *key* changes that are proposed in the RFP.

G. Proposed Use of ADAP as "Certified Public Expenditure (CPE) in Waiver. As discussed in our March 25, 2010 Subcommittee hearing, the DHCS proposes to utilize State CPE from the ADAP, along with other programs, to draw federal funds under the existing Hospital Financing Waiver in the Medi-Cal Program.

For the DHCS to claim CPE, there needs to be clarity that these funds are *not* otherwise being used to match other federal funds (cannot use funds to match federal dollars multiple times). However, the ADAP does recognize a portion of their expenditures for federal purposes in order to obtain federal Ryan White CARE Act funds.

According to the DHCS, the amount of CPE being counted from ADAP is a *maximum* of $144 million. Of this amount, the DHCS states they will be recognizing $65 million for 7 months (i.e., existing Hospital Finance Waiver amendment from February 1, 2010 to August 30, 2010). The DHCS states they have accounted for *all* maintenance of effort (MOE) requirements with the Ryan White CARE Act, as well as with the federal HRSA.

Further, the DHCS testified in the March 25, 2010 Subcommittee hearing there would be *absolutely no impact* to ADAP and that no changes to ADAP systems would be needed.

It is recommended to obtain the Office of AIDS perspective on this issue as the State entity that administers the ADAP.

Background—ADAP Uses a Pharmacy Benefit Manager. The AIDS Drug Assistance Program was established in 1987 to help ensure that HIV-positive uninsured and under-insured individuals have access to drug therapies.

Beginning in 1997, California contracted with a pharmacy benefit manager (PBM) to centralize the purchase and distribution of drugs under ADAP. Presently, there are over 200 ADAP enrollment sites and over 4,000 pharmacies available to clients located throughout the state. Subcommittee staff notes that use of a state-wide PBM has been a successful endeavor and has been very cost-beneficial to the state (See University of AIDS Research Program analysis of 2004).

The state provides reimbursement for drug therapies listed on the ADAP formulary (over 180 drugs). The formulary includes antiretrovirals (about 30), opportunistic infection drugs, hypolipidemics, anti-depressants, vaccines, analgesics, and antibiotics. Since the AIDS virus can quickly mutate in response to a single drug, medical protocol calls for inclusion of at least three different anti-viral drugs for patients.

Summary of ADAP Caseload. The ADAP is the payer of last resort. Individuals who have private health insurance, are eligible for Medi-Cal, or are eligible for Medicare, must access these services first, before the ADAP will provide services. The following chart provides a summary of estimated ADAP client enrollment.

ADAP Clients by Coverage Group (2010-11)

Coverage Group	Clients	Percent
ADAP-Only coverage	22,006	59.2%
Medi-Cal coverage	454	1.2%
Private coverage	6,084	16.4%
Medicare coverage	8,602	23.2%
TOTAL	**37,146**	**100 percent**

Background—How Does the AIDS Drug Assistance Program Serve Clients? ADAP is a subsidy program for low and moderate income persons with HIV/AIDS. Under the program, eligible individuals receive drug therapies through participating local pharmacies under subcontract with the statewide contractor (i.e., the pharmacy benefit manager).

Individuals are eligible for ADAP if they:

- Are a resident of California;
- Are HIV-infected;
- Are 18 years of age or older;
- Have an adjusted federal income that does not exceed $50,000;
- Have a valid prescription from a licensed CA physician; and
- Lack private insurance that covers the medications or do not qualify for no-cost Medi-Cal.

ADAP clients with incomes between $43,320 (400 percent of poverty as of April 1, 2009) and $50,000 are charged monthly co-pays for their drug coverage. A typical client's co-payment obligation is calculated using the client's taxable income from a tax return. The client's co-payment is the lesser of (1) twice their annual state income tax liability, less funds expended by the person for health insurance premiums, or (2) the cost of the drugs.

Background—ADAP is Cost-Beneficial to the State. The ADAP is a core State program. Without ADAP assistance to obtain HIV/AIDS drugs, individuals would be forced to: (1) postpone treatment until disabled and Medi-Cal eligible, or (2) spend down their assets to qualify, increasing expenditures under Medi-Cal. According to the Administration, 50 percent of Medi-Cal costs are borne by the state, whereas only 30 percent of ADAP costs are borne by the state.

Studies consistently show that early intervention and treatment adherence with HIV/AIDS-related drugs prolongs life, minimizes related consequences of more serious illnesses, reduces more costly treatments, and increases an HIV-infected person's health and productivity.

Subcommittee Staff Comment and Recommendation. The ADAP is a core State health care program which has been cost-beneficial to the State. First, due to several anticipated changes forthcoming in the May Revision, it is recommended to keep this issue "open" until such time.

Second, at this time it is recommended to adopt the following placeholder trailer bill language regarding the use of ADAP as a certified public expenditure in the event it is identified to be used for this purpose under a DHCS federal Waiver. (This issue is presently pending in a Waiver amendment to the Hospital Financing Waiver.) The proposed language is as follows:

> " In the event State expenditures for the AIDS Drug Assistance Program (ADAP) are identified by California to be used as a certified public expenditure for the purpose of obtaining federal financial participation under the State's Medi-Cal Program for any purpose, including federal demonstration waivers, the Department of Health Care Services and the Department of Public Health shall ensure the integrity of the ADAP in meeting its maintenance of effort requirements to receive federal funds, and to

obtain all ADAP drug rebates to support the ADAP. The Department of Health Care Services and the Department of Public Health shall keep the policy and fiscal committees of the Legislature informed of any potential concerns that may arise in the event the ADAP is used as a state certified expenditure as noted."

Questions. The Subcommittee has requested the Office of AIDS to respond to the following questions:

1. DPH, Please discuss and comment on each of the seven issues, as identified above.
2. DPH, Are there any other aspects regarding the ADAP that our Subcommittee should be aware of at this time?

2. Department of Public Health's Drinking Water Program: Three Issues

Budget Issues. The DPH has statutory authority to administer California's public Drinking Water Program. The program provides for ongoing surveillance and inspection of public water systems, issues operational permits to the systems, ensures water quality monitoring is conducted and takes enforcement actions when violations occur**.** They oversee the activities of about 8,000 public water systems (including both small and large water systems) that serve more than 34 million Californians.

The DPH is also designated by the federal Environmental Protection Agency (EPA) as the primacy agency responsible for the administration of the federal Safe Drinking Water Act for California.

California's total need for water system infrastructure improvements is in excess of $39 billion, as reported through a needs assessment conducted in 2007. The majority of public water systems care not able to finance necessary improvements on their own and require State and federal assistance.

There are *three budget issues* regarding the Drinking Water Program. These include receipt of federal funds, expenditure of State bond funds, and the need for State staff to manage various water projects. These issues are discussed below.

A. Safe Drinking Water: State Staff Request, and Concern with State Match.

Background. Enacted in 1997, under this program California receives federal funds to finance low-interest loads and grants for public water system infrastructure improvements. In order to draw down these federal capitalization grants, the State must provide a 20 percent match. Further, the State must submit an annual "Intended Use Plan" which describes California's plan for utilizing the program funding.

The program is comprised of five set-aside funds, as well as a loan fund. The set asides are as follows:

- Drinking water source protection (15 percent);
- Technical assistance to small water systems (up to 2 percent);
- Water system reliability/capacity development (2 percent);
- State water system program management activities (up to 10 percent);
- Administrative costs (up to 4 percent).

California will be receiving *increased federal grant funds* due to a change in the federal allocation, and from *increased Congressional funding* (H.R. 2996). Specifically, the Table below provides a summary of the forthcoming federal grant amounts.

With respect to the 20 percent State match, General Fund support was used for a period of time, then a portion of Proposition 13 bonds (until fully expended), then a portion of Proposition 50 bonds, and now a portion of Proposition 84 bonds.

It should also be noted that a portion of the State match has been obtained from local matches (cash) provided by Large Water systems to allow them to access some federal funds. In 2008, a total of $2.3 million was provided through a local match, and in 2009, a total of $6.1 million was provided.

The Table below provides a summary of the federal capitalization grants and State match. The DPH states that Proposition 84 bond funds will be available to serve as a portion of the 20 percent match until 2011-12. Then, additional State sources will be needed—such as other bond funds, local matches, or General Fund support.

Table: DPH Summary of Safe Drinking Water State Revolving Fund Program

State Fiscal Year	20 Percent State Match	Federal Fund Amount	Total Amount
Current Year	$13.3 million ($7.2 million Prop 84) ($6.1 million local—Large Water)	$66.4 million	$79.7 million
2010-2011	$25.4 million (Proposition 84)	$126.9 million	$152.3 million
2011-2012	$13.3million (Proposition 84) $12.1 million *(unidentified)*	$126.9 million	$152.3 million
2012-2013	$25.4 million *(unidentified)*	$126.9 million	$152.3 million
2013-2014	$25.4 million *(unidentified)*	$126.9 million	$152.3 million
2014-2015	$25.4 million *(unidentified)*	$126.9 million	$152.3 million

Proposed Trailer Bill Language—Revenue Bonds. The DPH has proposed trailer bill language for statutory authority to sell revenue bonds to provide the required 20 percent State match to access federal funds under the Safe Drinking Water Program.

Specifically the DPH is requesting an increase of $110,000 (Safe Drinking Water—Administration Account) to hire a consultant to provide assistance to the DPH for the sale of revenue bonds. The revenue stream would be obtained through water rate adjustments over several years.

Considerably more detail is needed in order to discern how the revenue bond sales would be structured. This is why the DPH is seeking an appropriation for a consultant.

The DPH notes several States—New York, Massachusetts, Arizona, Maine, Colorado, Nevada, Ohio and Connecticut—currently use a revenue bond approach.

Request for State Staff. The DPH currently has 45 permanent positions funded under the Safe Drinking Water Program. In addition, the program has 10.5 limited-term positions which expire as of June 30, 2010.

For 2010-11, an *increase of 24.5* (two-year limited term) positions is requested to **(1)** continue support of the Safe Drinking Water Program; **(2)** implement the U.S. EPA Groundwater Rule and State 2 Disinfectant and Disinfectant By-Products Rule; and **(3)** redirect State staff from Proposition 84 bond functions and integrate them into the global Safe Drinking Water Program.

First, the 10.5 limited-term positions within the Safe Drinking Water Program are proposed to be extended for another two-years (from June 30, 2010 to June 30, 2012). These positions have been provided by the Legislature on a two-year limited-term basis since 1999.

Second, 14 limited-term positions established July 1, 2009, pursuant to SB X2 1 (Perata), Statutes of 2008, are proposed to be integrated into the Safe Drinking Water Program from Proposition 84 bond functions. These positions would be used to (1) implement the federal US EPA Groundwater Rule and Stage 2 Disinfectant and Disinfection By-products Rule; and (2) provide technical assistance and administrative support for the increase in projects due to additional federal grants under the Safe Drinking Water Program.

A total of *$3 million* (various special water funds) is requested for the 24.5 limited-term positions. These positions are as follows:

- Sanitary Engineers—various levels 13
- Environmental Scientists—various levels 4
- Accounting, Analysts, and Clerical support 6.4
- Staff Counsel IV 1

Key activities of staff include: (1) review pre-applications and supporting information from public water grant applicants and rank projects; (2) conduct full engineering review of applications; (3) review construction bids for compliance and project costs; (4) conduct mid-point construction inspections; (5) review and approve invoices for payment; (6) assist in program management; (7) develop program financial reports; (8) develop contracts and monitoring performance procedures; (9) conduct activities associated with water capacity development; and (10) provide training and technical assistance on all aspects of the program.

Subcommittee Staff Comment and Recommendation. The Safe Drinking Water Program is a mature program and no issues have been raised regarding the proposed State staff. It is recommended to approve the staff request as proposed (24.5 limited-term positions).

For the $110,000 (Safe Drinking Water— Administration Account) to hire a consultant for the sale of revenue bonds, as well as the proposed trailer bill language, it is recommended to *deny this request without prejudice*.

This concept has merit but should proceed through the policy committee process for a more contemplative approach on how the revenue bonds may be structured, including any opportunities to facilitate access to bond funding streams for disadvantaged communities.

Questions. The Subcommittee has requested the DPH to respond to the following questions.

1. DPH, Please provide a *brief* summary of the Safe Drinking Water Program.
2. DPH, Please describe the both the trailer bill request *and* the 24.5 limited-term positions.

B. Drinking Water: Reappropriation of Proposition 84 Bonds (SB X2 1)

Budget Issue. Proposition 84, of 2006, provided the DPH with up to $300 million in bond authority for water projects. A spending plan was approved for this in 2007.

As noted above, a portion of Proposition 84 bonds (total of $45.7 million) is expended under the Safe Drinking Water Program for the State's 20 percent match to receive federal funds, and the remaining amount being available for various water projects.

SB X2 1, Statutes of 2008, modified this plan to increase the appropriation in 2008-09 and 2009-2010 (until June 30, 2010) for certain projects.

The DPH is requesting a five-year *reappropriation* of $100.4 million (special funds) pursuant to SB X2 1 (Perata), Statutes of 2008. However, the DPH states that due to sluggish bond sales, they have *not* been allocated sufficient bond proceeds to utilize the appropriation. Specifically, the DOF directed the DPH to suspend authorizing any new grants or obligations for bond projects in 2008.

The DPH did receive some bond proceeds in March 2009, November 2009, and March 2010 and has recently restarted the program. But the impact of the freeze on operations means the DPH cannot meet the encumbrance timeframes specified in SB X2 1.

Further, the DPH notes that, depending on bond sales, full encumbrance is not expected to occur until 2013-14. Therefore, the DPH proposes to *reappropriate funds* to extend its available budget authority as shown in the Table 1 below (last two-columns).

Table 1: DPH Proposal for Reappropriation of SB X2 1, Statutes of 2008 (for Prop 84)

Fiscal Year	SB X2 1 Appropriation (State Operations)	SB X2 1 Appropriation (Local Assistance)	Proposed DPH Reappropriation (State Operations)	Proposed DPH Reappropriation (Local Assistance)
2007-08				
2008-09	$327,000	0	$9,994 actual	0
2009-10	$1,717,000	$98,356,000	$1,500,000	$18,898,787
2010-11		0		$50,313,006
2011-12		0		$10,000,000
2012-13		0		$10,000,000
2013-14		0		$9,678,213
TOTAL	**$2,044,000**	**0**	**$1,509,994**	**$98,890,006**

Authority for *other* Proposition 84 bond funds (i.e., those not related to SB X2 1) are *not affected* by this DPH proposal. The appropriation amounts for the remaining Proposition 84 bonds are shown in Table 2, below.

Table 2: Existing Proposition 84 Appropriation (*non-SB X2 1*) = $134.3 million

Fiscal Year	Proposition 84 (non-SB X2 1) (State Operations)	Proposition 84 (non-SB X2 1) (Local Assistance)
2007-08	$414,000	
2008-09	$1,467,421	$113,500
2009-10	$2,152,000	0
2010-11	$2,154,000	0
2011-12	$2,154,000	$32,154,997
2012-13	$2,154,000	$28,854,997
2013-14	$1,638,616	29,793,250
2014-15	$1,500,000	$29,793,250
TOTAL	**$13,634,037**	**$120,709,994**

A *key* concern of the entire program is the receipt of Proposition 84 bond *proceeds* to commence with projects. As shown in Table 3 below, the DPH has projects identified in various stages that total $194.4 million presently, including an expected "shovel ready " (in two to six months) amount of about $16.2 million.

Yet, proceeds from bond sales for Proposition 84 are very sluggish and presently cash on hand is only about $21.1 million.

The DPH states that March 2010 bond proceeds may increase the $21.1 million (cash on hand), but it is unclear how the March proceeds of $159 million will be split between Proposition 84 program needs and Proposition 50 program needs. The DPH notes that the Department of Water Resources decides the actual split between programs.

Table 3: Proposition 84 Project Obligations Compared to Bond Proceeds Available

Description of Funding Obligation	**Proposition 84 Need**
1. Contract Agreements with Water Systems— 15 projects	$16.9 million
2. Letters of Commitment— 12 letters	$12.2 million
3. Applications in Process—6 applications	$124.3 million
4. New Applications Received—7 applications	$40 million
5. Emergency Grants-- 20	$1 million
TOTALS	**$194.4 million**

However, it would be constructive for the DPH to report back to the Subcommittee *prior* to May Revision on the exact split of the bond proceeds from March, as well as ideas for facilitating the receipt of funds for disadvantaged systems, as directed by SB X2 1.

Background—SB X2 1, Statutes of 2008. The purpose of this legislation is to require the integration of flood protection and water systems to achieve multiple public benefits and to make a portion of the funds authorized by Proposition 84 of 2006 immediately available to the DPH and Department of Water Resources. Additionally, it requires the DPH to give the highest priority water systems that serve disadvantaged and severely disadvantaged communities in the funding for small water system infrastructure improvements.

The DPH was provided 14 limited-term positions (expire as of June 30, 2010) for various aspects of the enabling legislation. These positions are proposed to be extended and will be integrated with the DPH's overall Safe Drinking Water Program (as referenced in the Agenda item above).

Background—Proposition 84, Safe Drinking Water & Water Quality Projects (2006). This act contains several provisions that pertain to the Department of Public Health (DPH). It should be noted that 3.5 percent (annually) of the bond funds are to be used to service the bond costs, and up to 5 percent (annually) can be used for DPH state support expenditures. The remaining amounts are to be used for local assistance. A summary of the provisions for which the local assistance funds can be used is as follows:

- $10 million for Emergency Grants. Section 75021 of the proposition provides funds for grants and direct expenditures to fund emergency and urgent actions to ensure that safe drinking water supplies are available. Eligible project criteria includes, but is not limited to: (1) providing alternate water supplies including bottled water where necessary; (2) improvements to existing water systems necessary to prevent contamination or provide other sources of safe drinking water; (3) establishing connections to an adjacent water system; and (4) design, purchase, installation and initial operation costs for water treatment equipment and systems. Grants and expenditures *shall not exceed $250,000* per project.

- $180 million for Small Community Drinking Water. Under Section 75022 of the proposition, grants for small community drinking water system infrastructure improvements and related actions to meet safe drinking water standards will be available. Statutory authority requires that priority be given to projects that address chemical and nitrate contaminants, other health hazards, and by whether the community is disadvantaged or severely disadvantaged.

  Eligible recipients include public agencies, schools, and incorporated mutual water companies that serve disadvantaged communities. Grants may be made for the purpose of financing feasibility studies and to meet the eligibility requirements for a construction grant.

  Construction grants are limited to $5 million per project and not more that 25 percent of the grant can be awarded in advance of actual expenditures. Up to $5 million of funds from this section can be made available for technical assistance to eligibility communities.

- $50 million for Safe Drinking Water State Revolving Fund Program. As discussed under Agenda issue #1—Proposition 50 implementation, the Safe Drinking Water State Revolving Fund Program enables California to provide a 20 percent state match to draw

down federal capitalization funds. Once the Proposition 50 bond funds are exhausted for this purpose, the Proposition 84 bond funds will be used. This conforms to Section 75023 of the proposition.

- $60 million Regarding Ground Water. Section 75025 provides for grants and loans to prevent or reduce contamination of groundwater that serves as a source of drinking water. Statutory language requires the DPH to require repayment for costs that are subsequently recovered from parties responsible for the contamination. Language in the proposition also provides that the Legislature may enact additional legislation on this provision as necessary.

Subcommittee Staff Comment and Recommendation. It is recommended to approve the reappropriation as proposed due to the sluggish bond proceeds, and to adopt the following Budget Bill Language to ensure the Legislature obtains regular updates regarding expenditures. The proposed Budget Bill Language is as follows (Item 4265-001-0001):

> "The Center for Environmental Health shall provide the fiscal committees of the Legislature with a fiscal update by no later than January 10 and May 14 of each year that provides a summary of *all* Department of Public Health's water bond appropriation authority, bond proceeds, status of project obligations and any other relevant information regarding DPH's safe drinking water program overall."

Questions. The Subcommittee has requested the DPH to respond to the following questions.

1. DPH, Please provide an update regarding Proposition 84 bonds, including funds affected by SB X2 1.
2. DPH, Specifically, what is presently being done to provide assistance to disadvantaged communities?

C. Drinking Water: Proposition 50 Bonds and State Staff

Budget Issue. The DPH is requesting an increase of $1.8 million (Proposition 50 Funds) to extend 15.5 positions for another two-years (June 30, 2010 to June 30, 2012). These positions were first authorized in 2003 and are supported by the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 (Proposition 50).

The positions are primarily engineering classifications, along with related environmental scientist classifications and administrative support. The DPH states these positions are necessary to meet workload needs for key activities as follows:

- Review technical "pre-applications" for Proposition 50 funding and rank proposals.
- Create a project priority list based on the priority ranking of the projects.
- Evaluate full project applications and prepare extensive technical report documents for each project.
- Review and evaluate the plans and specifications for each project and conduct construction inspections and a final inspection of each project.
- Review proposal for reduction or removal of drinking water contaminants and participate in demonstration projects such as ultraviolet treatment processes.
- Review and comment on draft environmental documents prepared for drinking water projects.
- Conduct final project inspection and certify completion.
- Conduct program fiscal management and administration.

The Proposition 50 Plan is maintained by the State's Resources Agency. DPH updates its portion of the Plan twice a year to reflect bond cash flow by updating project status information.

The DPH states they have updated their Plan to reflect a longer disbursement period for local assistance funds, and part of this is due to sluggish bond sales.

Background—Proposition 50, Statutes of 2002 & Chapters Applicable to the DPH. Proposition 50 of 2002 provides funds to a consortium of state agencies and departments to address a wide continuum of water quality issues. The DPH anticipates receiving up to $485 million over the course of this bond measure for water projects. Of this amount, $89 million has been expended towards the State's 20 percent match requirement under the Safe Drinking Water Program. The remaining amount is for various water projects as specified in the following key chapters of the proposition.

Chapter 3—Water Security ($50 million). Proposition 50 provides a total of $50 million for functions pertaining to water security, including the following: (1) monitoring and early warning systems, (2) fencing, (3) protective structures, (4) contamination treatment facilities, (5) emergency interconnections, (6) communications systems, (7) other projects designed to prevent damage to water treatment, distribution and supply facilities**.**

Chapter 4—Safe Drinking Water ($435 million total for DHS). Proposition 50 provides $435 million to the DHS for expenditure for grants and loans for infrastructure improvements and related actions to meet safe drinking water standards. A portion of these funds will be used as the state's match to access federal capitalization grants (see table below).

With respect to the other projects, the Proposition states that the funds can be used for the following types of projects: **(1)** grants to small community drinking water systems to upgrade monitoring, treatment or distribution infrastructure; **(2)** grants to finance development and demonstration of new technologies and related facilities for water contaminant removal and treatment; **(3)** grants for community water quality; **(4)** grants for drinking water source protection; **(5)** grants for drinking water source protection; **(6)** grants for treatment facilities necessary to meet disinfectant by-product safe drinking water standards; and **(7)** loans pursuant to the Safe Drinking Water State Revolving Fund (i.e., where by the state draws down 80 percent federal match). In addition, it is required that not less than 60 percent of the Chapter 4 funds be available for grants to Southern California water agencies to assist in meeting the state's commitment to reduce Colorado River water use.

Subcommittee Staff Comment and Recommendation. It is recommended to approve the requested positions and to obtain an update from the DHP on the program.

Questions. The Subcommittee has requested the DPH to respond to the following questions.

1. DPH, Please provide an update regarding Proposition 50 bonds.

2. DPH, Please provide a brief summary of the budget request.

3. Radiation Protection Program: Two Issues

Budget Issues. The DPH is requesting a total of 13 two-year limited-term staff (to June 30, 2012) to address two issues regarding the Radiation Protection Program.

First, nine Associate Health Physicist positions (two-year limited-term) are proposed to increase the number of radiation machine inspections conducted. Presently, the DPH must register and inspect about 13,000 X-ray machines, including medical diagnostic, therapy accelerators, research machines and others. However, presently they are only able to inspect about 10,000 machines using 33 Health Physicists (about 300 inspections per positions).

These inspections are required by State statute and are intended to:

- Reduce the potential for excessive radiation exposure to individuals from medical and industrial sources;
- Reduce the number of unqualified individuals using radiation machines;
- Provide education to assist users to understand and comply with radiation protection standards; and
- Respond and investigate complaints and perform enforcement activities aimed at prosecuting those facilities and operators in violation of laws and regulations.

The DPH states that with the additional nine Associate Health Physicist positions, they will b able to address the need for the additional 3,000 inspections.

Second, four positions (two-year limited-term) are requested to monitor radioactive materials per existing State statute (Section 115070 of Health and Safety Code), and as required by the federal Nuclear Regulatory Commission (NRC). The requested positions include two Associate Health Physicists and two Office Technician positions. Specifically, the Associate Health Physicists would do the following:

- Annually insect 80 to 120 additional radioactive materials licensees;
- Perform verification of licensee's employees background and communication procedures and policies;
- Inspect locations of increased controls materials, logs of materials receipt, transfer and disposal, licensee radiation detection equipment, and maintenance and calibration records; and
- Annually perform over 50 escalated enforcement activities to ensure that non-compliant facilities and unauthorized operators are identified and stopped from illegal activities.

The requested two Office Technicians would be used for various data collection activities, including maintaining tracking system documents.

Further, the DPH proposes a technical reduction of $2.275 million (Radiation Control Fund) for the current-year, and a *net* reduction of $1.3 million (Radiation Control Fund) for 2010-11.

The current-year reduction reflects adjustments for one-time expenditures related to equipment purposes and training requirements. The $1.6 million cost of the requested 13 positions are accounted for within the net reduction for 2010-11.

Background on Radiation Control Program. The purpose of this program is to protect public health and safety by decreasing excessive and unnecessary exposure to radiation, and reducing the release of radioactive material into the environment. This is accomplished through (1) licensing users of radioactive material, including medical, academic and industrial facilities; (2) registration of radiation producing machines; (3) certification of individuals using radiation sources; (4) inspection of facilities using radiation sources; (5) conducting enforcement actions.

California, along with 33 other States, has an agreement with the federal NRC by which the federal government does not have regulatory authority over certain types of radioactive material. Instead, the State has the authority for oversight but the NRC conducts performance evaluations as part of its function. This State-Federal relationship is known as "Agreement State Program". Therefore, the Radiation Control Program licenses and inspects users of radioactive materials that are subject to both federal and State law.

The federal NRC has instituted additional controls including a National Source Tracking System Program in which the DPH must participate. This program tracks the location of radioactive materials, and adds an additional layer of security and workload to the DPH.

Subcommittee Staff Comment and Recommendation. It is recommended to approve the requested 13 staff (two-year limited-term) as proposed and to obtain an update on the Radiation Protection Program.

Questions. The Subcommittee has requested the L&C Division to respond to the following questions:

1. DPH, Please provide a *brief* summary of the Radiation Protection Program and the budget request.
2. DPH, When will information be forthcoming regarding the Radiation Materials Program reporting?

4. Licensing and Certification— Proposed Licensing Fees for 2010-11

Budget Issue. The Licensing and Certification (L&C) Division develops and enforces State licensure standards, conducts inspections to assure compliance with federal standards for facility participation in Medicare and/or Medi-Cal, and responds to complaints against providers licensed by the DPH.

In 2006, the L&C Program began a transition to migrate from General Fund support to a fee-based program, coupled with applicable federal funding. Only State departments that operate long-term care facilities are appropriated General Fund support for the purpose of licensing and certification activities. Existing statute provides the framework for calculating the annual licensing and certification fees for each of the various health care facilities.

Existing statute requires the L&C Division to annually publish a Health Facility License Fee Report (DPH Fee Report) by February of each year. The purpose of this annual DPH Fee Report is to provide data on how the fees are calculated and what adjustments are proposed for the upcoming fiscal year.

The DPH Fee Report utilizes the requirements of existing statute for the fee calculations, and makes certain "credit" adjustments. The DPH notes that these "credits" are most likely *one-time only* and that when fees are calculated based solely on the statutorily prescribed workload methodology as contained in statute, there *may be significant increases* to fees in the near future.

The *"credits"* are applied to offset fees for 2010-11 and total $14.7 million. They are as follows:

- $8.5 million credit in savings resulting from 2009-2010 employee furloughs.
- $4.2 million credit for miscellaneous revenues for change in ownerships and late fees collected in 2008-09.
- $2 million credit for 2008-09 for internal program savings.

The fees must also take into consideration various incremental cost adjustments for 2010-11, including budget change proposals (to be discussed individually in this Agenda, below), employee retirement and worker's compensation, facility space for field offices and related aspects.

The baseline incremental changes result in *increased costs of $3.6 million* and are as follows:

- Adjustment of pro-rata as directed by the Department of Finance for a net increase of $2.1 million.
- Reallocation of DPH overhead expenditures of $1.4 million.
- Adjustment of $134,000 for employee compensation and retirement.
- Adjustment of $64,000 for lease revenue debt service for staff located at the Richmond Laboratory complex.

The DPH Fee Report of February 2010 proposes a *slight reduction* to fees as shown in the Table below. This decrease results from application of the "credits", primarily from the State employee furloughs, as referenced.

Proposed Licensing and Certification Fee Schedule (January 2010)

Facility Type	Fee Category	2009-10 Fee (Budget Act 2009)	Proposed Fee 2010-11	Difference (+/-)
Referral Agencies	per facility	$3,564.13	$3,536.84	-$27.29
Adult Day Health Centers	per facility	$3,995.61	$3,985.57	-$10.04
Home Health Agencies	per facility	$4,159.42	$4,129.63	-$29.79
Community-Based Clinics	per facility	$600.00	$581.67	-$18.33
Psychology Clinic	per facility	$1,099.99	$1,081.80	-$18.19
Rehabilitation Clinic	per facility	$200.00	$190.00	-$10.00
Surgical Clinic	per facility	$1,918.00	$1,821.97	-$96.03
Chronic Dialysis Clinic	per facility	$2,932.87	$2,897.40	-$35.47
Pediatric Day Health/Respite	per bed	$154.62	$152.23	-$2.39
Alternative Birthing Centers	per facility	$2,430.93	$2,409.10	-$21.83
Hospice	per facility	$1,875.41	$1,844.59	-$30.82
Acute Care Hospitals	per bed	$257.76	$255.10	-$2.66
Acute Psychiatric Hospitals	per bed	$257.76	$255.10	-$2.66
Special Hospitals	per bed	$257.76	$255.10	-$2.66
Chemical Dependency Recovery	per bed	$144.59	$143.86	-$0.73
Congregate Living Facility	per bed	$287.00	$228.57	-$58.43
Skilled Nursing	per bed	$287.00	$228.57	-$58.43
Intermediate Care Facility (ICF)	per bed	$287.00	$228.57	-$58.43
ICF-Developmentally Disabled	per bed	$938.01	$425.20	-$512.81
ICF—DD Habilitative, DD Nursing	per bed	$938.01	$425.20	-$512.81
Correctional Treatment Centers	per bed	$938.01	$425.20	-$512.81

Background on Fee Methodology. Licensing fee rates are structured on a per "facility" or "bed" classification and are collected on an initial license application, an annual license renewal, and change of ownership. The fees are placed into a special fund—Licensing and Certification Special Fund.

The fee rates are based on the following activities:

- Combines information on projected workload hours for various mandated activities by specific facility type (such as skilled nursing home, community-based clinic, or hospital). The DPH notes that workload data from 2008-09 is used to calculate rates for 2009-2010.
- Calculates the State workload rate percentage of each facility type to the total State workload.
- Allocates the baseline budget costs by facility type based on the State workload percentages.
- Determines the total proposed special fund budget cost comprised of baseline, incremental cost adjustments, and credits.
- Divides the proposed special fund cost per facility type by the total number of facilities within the facility type or by the total number of beds to determine a per facility or per bed licensing fee.

The DPH Fee Report provides considerable detail regarding these calculations, as well as useful data on L&C workload associated with the various types of health care facilities, along with clear description regarding the details of the methodology.

Background—Licensing & Certification Division Total Resources. The L&C Division is supported by licensing and certification fee revenue as noted above, as well as various federal funds, and certain reimbursements.

Funding Sources for L&C Division	2009-10	2010-11	Difference
L&C Fees Paid by Facilities	$73,993,000	$86,523,000	$12,530,000
Federal Funds	$60,677,000	$56,526,000	-$4,151,000
Transfers from other State Departments	$8,005,000	$8,005,000	--
Reimbursement from the DHCS for federal certification, Nurses Aide Training and related items.	$3,439,000	$3,292,000	-$147,000
State Citation Penalties Account	$2,149,000	$2,149,000	--
Internal Quality Improvement Account		$818,000	$818,000
Nursing Home Administrator Program	$326,000	$445,000	$119,000
Federal Bioterrorism Funds	$217,000	$217,000	--
General Fund	$221,000	0	-$221,000
TOTAL FUNDS	**$149,027,000**	**$157,975,000**	**$8,948,000**

Subcommittee Staff Comment and Recommendation. As discussed in the DPH Fee Report, certain "credits" are being applied which reduce the fees paid by the various health care facilities. The DPH furloughing of staff for a reduction (credit) of $8.5 million is the most significant reason why fees are being temporarily reduced. However, the affect on L&C Division performance measures for completing required survey work and enforcing quality assurance measures are not readily known. The DPH should provide an update on this aspect.

It should also be recognized that fees may need to be adjusted at the May Revision or subsequent date to reflect any changes that may be forthcoming regarding employee furloughs or other State employee changes. It is recommended to adopt the proposed fee levels pending receipt of the May Revision.

Further, it is recommended to adopt placeholder trailer bill language to require the DPH to provide the fiscal committees of the Legislature with an L&C Division estimate package by no later than January 10 and May 14 of each year. Presently the L&C Division does not provide this level of fiscal detail to the Legislature. It is the understanding of Subcommittee staff that the DPH has been working on the development of such a fiscal estimate package.

Questions. The Subcommittee has requested the L&C Division to respond to the following questions:

1. DPH, Please provide a *brief* summary of the L&C Fees, including the *key* credits and adjustments.
2. DPH, How have the existing furloughs affected the L&C Division workload and survey requirements and quality assurance follow-up?

5. Licensing and Certification—Quality Improvement Activities

Budget Issue. The L&C Division requests one-time expenditure of $800,000 for contracts for quality improvement activities to initiate a "High-Risk Operating Room Department Safety Collaborative" (Collaborative). This Collaborative would focus on assisting hospitals to reduce or eliminate surgical adverse events related to retention of a foreign object, which is the second most frequent preventable adverse event.

Senate Bill 541 (Alquist), Statutes of 2008, among other things, increased certain penalties assessed against hospitals for adverse actions and required these funds to be placed into a special fund to be expended, upon appropriation by the Legislature, to support internal departmental quality improvement activities.

The DPH states that the use of a Collaborative is a new major approach for rapidly improving the quality and efficiency of health care. It focuses on a single technical area and seeks to rapidly spread existing knowledge or best practices related to that technical topic.

California Hospitals will enroll into this Collaborative so that their medical staff can receive training sessions on best practices that are proven to reduce the incidence of retention of foreign objects during surgery. Participant hospitals will establish their baseline for this adverse event and set quarterly goals for including new reduction strategies and method to reduce event rates.

Subcommittee Staff Comment and Recommendation. It is recommended to approve the increase for $800,000 (Internal Department Quality Improvement Account) for quality improvement activities as provided for under SB 541 (Alquist), Statutes of 2008. The DPH should provide an update on the scheduling of the project and anticipated outcomes.

Questions. The Subcommittee has requested the L&C Division to respond to the following questions:

1. DPH, Please provide a brief summary of the proposal and anticipated timing of the contracts and outcomes.

6. Licensing and Certification—Health Facility Reporting (CalHEART)

Budget Issue. The DPH is requesting an increase of $721,000 ($703,000 L&C Fund and $18,000 (Internal Department Quality Improvement Account) for 1.5 positions (limited-term), an interagency agreement, and a contract to develop, implement and maintain the California Healthcare and Event Reporting Tool (CalHEART) web-based portal.

The purpose of CalHEART would be to address reporting needs as contained in State statute. Specifically, Senate Bill 1301 (Alquist), Statutes of 2008, and Senate Bill 1058 (Alquist), Statutes of 2009, both require health facilities to report the DPH regarding certain adverse events (occurring in hospitals) and certain bacterial infection incidences (health facilities).

Presently, these reporting requirements are met by facilities providing the information to the L&C Division by telephone, fax or mail. There is concern this manual process discourages the timely reporting and may delay the L&C Division's ability to investigate incidences in a timely manner.

The 1.5 positions include a half-time Data Processing Manager III (two-year limited-term to June 30, 2012), and one Staff Programmer Analyst (one-year limited-term from January 2011 to December 2012). These positions would work with the contractor and the Office of the Chief Information Officer (interagency agreement at $140,000) to implement the web-based portal.

The DPH would procure a contractor from the California Multiple Award Schedule (CMAS) qualified information technology vendor list to develop the web portal beginning July 1, 2010. A total of $431,000 has been identified for this purpose.

The DPH has provided the following preliminary timetable for this project.

DPH Major Milestones	Estimated Completion Date
Feasibility Study Report (required)	July 2009
Project Approval	July 2010
Complete Requirements Analysis	January 2011
Complete System Design	February 2011
Complete System Development	July 2011
Testing and User Acceptance	August 2011
System Live	September 2011

Subcommittee Staff Comment and Recommendation. The proposal corresponds to the enabling legislation and no issues have been raised.

Questions. The Subcommittee has requested the L&C Division to respond to the following questions:

1. DPH, Please provide a brief description of the budget request and project.

7. Laboratory Field Services— Clinical Laboratory Inspections

Budget Issue. The DPH is requesting an increase of $3.4 million (Clinical Laboratory Improvement Fund) to support 35.5 permanent State positions to implement Senate Bill 744 (Strickland), Statutes of 2009, regarding inspections of clinical laboratories and to address concerns identified in a Bureau of State Audits investigation in 208.

Among other things, SB 744 (Strickland), Statutes of 2009, increased the fee structure based on the volume of testing for licensed laboratories and increased fees for registered laboratories and certified phlebotomists. This new revenue is to be used to enable the DPH's Laboratory Field Services to conduct required biennial inspections, complaint investigations, proficiency testing oversight, enforcement for non-compliance, and phlebotomy certifications.

The DPH states that many of the existing Laboratory Field Services activities have either been minimally performed or not conducted at all due to understaffing and under funding of the program. A Bureau of State Audit investigation also identified many deficiencies in the program which SB 744 was also intended to address.

The DPH notes that 70 percent of diagnoses are based upon laboratory tests. Laboratory mistakes lead to misdiagnoses and inappropriate follow-up treatment. As such, inspections and oversight of laboratories is vital to public health and safety. The number of clinical laboratories continues to increase and there are about 19,500 presently in California, and another 600 outside the State performing testing on California residents.

The 35.5 positions and core functions are described below. The DPH will utilize two existing field offices for this additional staff—one in Los Angeles and the other in Richmond.

- Examiner III, Section Chief (1). This position manages the Los Angeles Office and staff.
- Examiner II, Program Managers (4). These positions shall coordinate initial onsite inspections, biennial inspections, out-of-state licensure, and complaint investigations.
- Examiner I (9). These positions shall conduct initial onsite inspections of the new laboratories, and following up with biennial inspections of newly licensed laboratories. These positions will be shared between Los Angeles and Richmond field offices.
- Examiner I (7). These positions shall conduct biennial inspections of licensed laboratories, including selected laboratories licensed outside of California. These positions will be shared between field offices.
- Examiner I (1). This position shall review and approve phlebotomy training programs in Richmond.
- Program Technicians II (10). These positions shall be assigned to support licensing and registration activities.
- Program Technicians II (3). These positions shall be assigned to review and process phlebotomy renewals and applications.
- Staff Counsel (half-time). This half-time position shall coordinate enforcement actions for non-compliance including failure to comply with inspections, proficiency testing

failures, employment of unlicensed persons to perform testing, phlebotomy competency, and operating without a license after being noticed.

The DPH states that with this new staff in place, they will be able to (1) assure that licensed laboratories are inspected every two years as mandated by law by 2012-13; (2) begin to investigate complaints in a more timely manner; (3) process phlebotomy applications and renewals timely; and (4) approve phlebotomy training programs as required.

The budget request also includes $250,000 (Clinical Laboratory Improvement Fund) for equipment, including moveable storage units and an electronic scanner.

Subcommittee Staff Comment and Recommendation. An extensive workload analysis was provided to the Subcommittee and no issues have been raised. SB 744 increased fees to provide revenues for this purpose and to improve the oversight of clinical laboratories, including the certification of phlebotomists. The DPH proposal appears to be consistent with the enabling legislation.

Questions. The Subcommittee has requested the L&C Division to respond to the following questions:

1. DPH, Please provide a brief summary of the budget request and timing of implementation for all activities.

8. Women, Infants and Children's Supplemental Nutrition Program (WIC)

Budget Issues. The DPH is requesting an increase of $590,000 (federal funds) to support 14 State positions (all permanent, except for one) to address increased WIC participation, accommodate new workload requirements as directed in federal regulations, and to manage the expansion of the WIC Breastfeeding Peer Counselor Program. Eight of these positions are presently funded from a temporary help blanket (federal funds).

The DPH states increased federal funds through the federal American Recovery and Reinvestment Act (ARRA) of 2009, signed by President Obama, and USDA rules regarding WIC food packages, published in 2007, have added new workload for WIC. WIC is also experiencing expansion of the Breastfeeding Peer Counseling Program to include more local WIC agencies. They contend that growth in the number of participants and authorized vendors (such as groceries stores) is expected to continue.

Of the total 14 requested positions, nine are requested to address issues regarding overall WIC Program growth. These positions and key functions are as follows:

- Staff Services and Governmental Program Analysts (7). These positions will be employed to conduct the following *key* functions: (1) provide support to local WIC Agencies through contract management, training and on-site technical assistance to assess operations and quality, and recommend improvements; (2) authorize additional vendors to increase WIC participant access to stores that redeem WIC checks; (3) coordinate and deliver training classes on program, nutrition, and vendor requirements; (4) review and recommend action on WIC food instruments rejected for payment by the State Treasurer's Office and work with affected vendors; (5) develop and maintain a centralized system for tracking all federal reporting deliverables and responses to the USDA and conduct any necessary follow-up regarding technical reviews; (6) provide technical assistance to vendors (over 4,700 now); and (7) conduct policy reviews as directed.

- Health Program Specialist I (1). This position will review, analyze and update program performance measures and outcomes to ensure compliance with federal and state laws and regulations.

- Office Technician (1). This position will provide support functions for various aspects of the training program.

The remaining six requested positions will be used for compliance with federal regulation and to expand the Breastfeeding Peer Support Program. A total of five Public Health Nutrition Consultants, including supervisory, will address issues regarding food package policy, implementation of recent federal regulations, breastfeeding policy development and expansion of the Peer Support Program. An Associate Governmental Program Analyst will provide other administrative support functions related to federal deliverables.

Background on WIC Funding. WIC is funded with federal grants and WIC manufacturer rebate funds such as from baby formula, juice and cereal. As noted in the Table below, California has been receiving increased federal funding for the program.

Summary of WIC Funding. The Table below provides a summary of WIC Program funding for the past three years.

1. Local Assistance	2008-09	2009-10	2010-11
Federal Grant for Food	$766,691,000	$805,025,000	$805,025,000
Federal Grant for Administration	$269,219,000	$282,846,000	$282,846,000
WIC Manufacturer Rebate Fund	$281,214,000	$329,901,000	$329,901,000
Total Local Assistance	**$1,317,124,000**	**$1,417,772,000**	**$1,417,772,000**
2. State Operations			
Federal Grant	$40,440,000	$48,170,000	$52,296,000
Total State Operations	**$40,440,000**	**$48,170,000**	**$52,296,000**
GRAND TOTAL for WIC	**$1,357,564,000**	**$1,465,942,000**	**$1,470,068,000**

It should be noted that the DPH does not provide the Legislature with an estimate package for the WIC Program. As such, fiscal detail is not readily discernable.

Background on WIC Program. WIC is a federally funded program for low-income women who are pregnant or breastfeeding and for children under age five who are at nutritional risk. WIC's objective is to provide nutritious foods, nutrition education, breastfeeding promotion and education, and referrals to health and social services programs.

The DPH has contracts with 82 local WIC agencies to provide nutrition education, referrals to health and social services and food checks to purchase nutritious food.

In California, about 1.440 million WIC participants receive food checks each month. WIC offers over 200 different types of food checks, including checks for milk, eggs, cheese, cereal, and infant formula, that vary based on the needs of the individual participants. There are presently over 4,700 WIC authorized vendors.

Background—WIC's Breastfeeding Peer Counseling Program. The federal USDA provides an annual grant to California for this program which is used to develop and operate breastfeeding peer counseling programs serving 37,500 pregnant and breastfeeding WIC participants. While operation for only three years, California WIC agencies have succeeded in increasing the percentage of infants fed exclusively with breast milk. However, more work needs to be done as illustrated by the following statistics:

- Only 54 percent of the mothers participating in the WIC Program initiate breastfeeding as compared to 75 percent of all California mothers; and
- Only 21 percent of mothers participating in the WIC Program are breastfeeding their infants at six months of age as compared to 42 percent of all California mothers.

The costs savings of breastfeeding include reductions in illness in infants and their associated medical visits and time lost from work by parents. There is also evidence that lack of extended breastfeeding contributes to overweight and obesity later in life. According to WIC, California could avoid $476 million a year in health care costs and lost wages if just 50 percent of mothers breastfed exclusively for six months.

Subcommittee Staff Comment and Recommendation. It is recommended to approve the DPH request for WIC to ensure that WIC participants receive needed food and support services, and so California can more effectively expend its federal grant funds.

In addition, it is recommended to adopt placeholder trailer bill language to require the DPH to submit an estimate package on the WIC Program to the Legislature, as is done with most large programs the State operates. The proposed language is as follows:

> "By no later than January 10 and May 14 of each year, the State Department of Public Health shall provide the fiscal committees of the Legislature with an estimate package for the Women, Infant, and Children Supplemental Nutrition (WIC) Program. This estimate package shall include all significant assumptions underlying the estimate for the WIC's current-year and budget-year proposals, and shall contain concise information identifying applicable estimate components, such as caseload, policy changes, federal fund information, manufacturer rebate information, State positions and organization charts, and other assumptions necessary to support the estimate."

Questions. The Subcommittee has requested the L&C Division to respond to the following questions:

1. DPH, Please provide a *brief* summary of the budget proposal.

II. Department of Health Care Services

A. Vote Only Issue

1. Extend Position for DHCS Waiver Unit

Budget Issue. The DHCS requests to extend an existing, limited-term Associate Governmental Program Analyst for another two years (until June 30, 2012) to provide monitoring and assistance regarding various DHCS federally- approved Medi-Cal Waivers (such as the Home and Community-Based Waiver, Hospital Financing Waiver, and others). Extension of this filled position requires an increase of $100,000 ($50,000 General Fund).

Subcommittee Staff Comment and Recommendation--Approve. The DHCS has provided workload justification to continue this position and Subcommittee staff believes this position can be useful to provide assistance for the upcoming 1115 Waiver which is presently being discussed through various stakeholder forums. It is important to have experienced staff for these Waivers and it is incumbent upon the State to ensure strong management of Waivers to ensure the receipt of federal funds. Therefore, no issues have been raised.

B. Issues for Discussion

1. Genetically Handicapped Persons Program (GHPP)

Budget Issue. The DHCS proposes total expenditures of $83 million ($49.8 million General Fund, $4 million Blood Factor Rebate, $1.2 million Enrollment Fees, and $28 million federal funds) for the GHPP.

This reflects a *net* increase of $6.3 million (increase of $12.7 million General Fund, decrease of $6.9 million federal funds, and increase of $502,000 in Enrollment Fees). as compared to 2009-2010.

The DHCS states that expenditures for individuals with Hemophilia continue to increase, primarily due to the cost of blood factor products. The DHCS utilizes two mechanisms to manage blood factor product expenditures, including a rebate program (both federal rebate and State supplemental rebates), and a soon to be implemented program with pharmacy providers.

The DHCS states that the collection of blood factor rebates is progressing but that *three* blood product manufacturers have *not yet* signed State supplemental rebate contracts. The DHCS states that at least $5.3 million has been collected from the federal rebates for 2009-2010, and that $1.044 million has been collected from the State supplemental portion. These rebates are used to offset General Fund support.

It should also be noted that the DHCS increased enrollment fees under the program as of July 1, 2009. A total of about $1.2 million in GHPP enrollment fees is estimated to be collected which reflects an increase of $502,000 over last year. These enrollment fees are also used to offset General Fund support.

The Table below reflects the DHCS base expenditures for specified diseases.

Table: DHCS Base Expenditure Assumptions for Specified Disease for 2010-11

Diagnosis	Average GHPP-Only Caseload	Average Annual Cost per Case	Total Program Expenditure
Hemophilia	437	$172,300	$75,302,000
Cystic Fibrosis	427	$19,300	$8,238,000
Sickle Cell	308	$4,400	$1,355,000
Huntington's	157	$1,000	$160,000
Metabolic	109	$600	$63,000
Total People	1,438	$59,200	$85,118,000

Background—Genetically Handicapped Persons Program (GHPP). The Genetically Handicapped Persons Program (GHPP) provides comprehensive health care coverage for persons with specified genetic diseases including Cystic Fibrosis, Hemophilia, Sickle Cell Disease, Huntington's Disease, Joseph's Disease, metabolic diseases and others.

GHPP also provides access to social support services that may help ameliorate the physical, psychological, and economic problems attendant to genetically handicapping conditions. Persons eligible for GHPP must reside in California, have a qualifying genetic disease, and be otherwise financially *ineligible* for the CCS Program. GHPP clients with adjusted gross income above 200 percent of poverty pay enrollment fee and treatment costs based on a sliding fee scale for family size and income.

Subcommittee Staff Comment and Recommendation. The GHPP is a core health care program that provides medically necessary treatment to individuals with specified conditions, often life-threatening, who have often not had access to health care coverage. Often health care coverage has been denied due to their pre-existing condition.

The DHCS will be providing an update on caseload and expenditures at the May Revision. It is recommended to hold this issue "open" pending receipt of the May Revision and to encourage the DHCS to assertively seek participation in the supplemental rebate program by *all* blood factor product manufacturers.

Questions. The Subcommittee has requested the DHCS to respond to the following questions.

1. DHCS, Please provide a brief summary of the GHPP and budget request.
2. DHCS, Please provide an update regarding implementation of the blood factor contracting program. Can anything else be done to have full participation by all blood manufacturers?
3. DHCS, How may the GHPP be affected by the federal Patient Protection and Affordable Care Act, signed by President Obama?

2. State Staff to Conduct Audits of FQHC and RHC Clinics

Budget Issue. The DHCS is requesting an increase of $787,000 ($393,000 General Fund) to support 7 new State positions (two-year limited-term) to conduct field audits of Federally Qualified Health Centers (FQHC) and Rural Health Clinics (RHC) which are associated with payment changes.

The DHCS states these additional positions are needed to address workload needs associated with reimbursing these providers using the Prospective Payment System (PPS) and the number of FQHC/RHC providers which has increased from about 400 in 2001 to over 900 in 2010. Presently the DHCS has six auditors that work on these activities.

Specifically, the DHCS states the requested seven positions would do the following:

- Health Program Auditors III (4 positions). These positions would augment current staff and do the following: (1) Conduct tentative settlements subsequent to cost report acceptance procedures; (2) Monitor differential rates and propose changes as necessary; (3) Conduct field audits and desk reviews for the FQHC/RHC providers, including annual reconciliations, change in scope of service requests, and initial rate setting audits; and (4) Participate in administrative hearings and appeals.
- Health Program Auditors IV (2 positions). These positions would augment current staff and do the following: (1) Conduct enrollment functions not currently done by the DHCS Provider Enrollment Division; (2) Develop regulations, policies and procedures for continued improvement to audit and review protocols; (3) Provide training and technical assistance to providers and other stakeholder groups; (4) Attend formal appeals as an expert witness or subject matter expert; and (5) Conduct the more complex field and desk audits.
- Health Program Audit Manager (1 position). This position provides supervision and conducts more complex tasks related to the above work.

The DHCS states that final audits are completed on about one-third of all FQHC/RHC providers each fiscal year. They contend that if more staff is provided and more audits are conducted a savings of $2.7 million ($1.3 million General Fund) will be obtained. This savings is included in the Governor's January budget for Medi-Cal.

The Fiscal Audits Branch of the DHCS, who is requesting these positions, has a total of 297 staff in several field offices throughout California. As of April 1, 2010, they had 15 overall vacancies.

Background. FQHC/RHC providers are reimbursed by Medi-Cal using a "prospective payment rate (PPS) as required by federal law and enabling state legislation. Among other things, PPS requires that FQHC/RHC providers receive their reimbursement on a per visit basis according to their cost report and for all additional qualifying State programs the FQHC/RHC provides, including "wrap-around payment" (such as Medi-Cal Managed Care, and other services/programs).

The DHCS must analyze and review rate-setting or rate-changing cost reports or any request for reconciliation to validate and verify the costs and services, and if necessary, make audit adjustments to the report. The DHCS calculates the difference between each clinic's final PPS rate and the expenditures already reimbursed (interim rate, Managed Care Plans and Medicare) in order to prepare a final settlement with the clinic.

Subcommittee Staff Comment and Recommendation—Provide Three Positions. There is considerable workload associated with the PPS reimbursement process as presently structured. The DHCS should be pursuing a re-engineering process to better determine how to strengthen existing procedures to streamline its methods, including implementation of regulations.

Due to the fiscal crisis, it is recommended to provide only *three* Health Program Auditor III positions and to delete the remaining positions. The Health Program Auditor III positions will facilitate core functions needed to address the increase in the number of FQHC/RHC providers, and to help prepare for network capacity building which will be necessary with implementation of federal health care reform and the upcoming 1115 Medicaid Waiver.

Further, these positions should be able to identify the cost savings of $2.7 million ($1.3 million General Fund) as identified in the Medi-Cal local assistance estimate as noted.

Questions. The Subcommittee has requested the DHCS to respond to the following questions.

1. DHCS, Please provide a *brief* summary of the budget request.

3. DRA Citizenship—State Staff

Budget Issue. The DHCS proposes to extend four limited-term positions for two-years to: (1) continue implementation of the federal Deficit Reduction Act of 2005 (DRA) citizenship and identity verification, and the transfer of asset rules for Medi-Cal eligibility determination; and (2) implement new Children's Health Insurance Program Reauthorization Act (CHIPRA) of 2009 requirements regarding citizenship and identify.

The four positions—two Governmental Program Analysts and two Staff Counsels—were established July 1, 2007 and will expire as of June 30, 2010. An increase of $435,000 ($218,000 General Fund) is requested to maintain the positions for another two-years (June 30, 2012).

The DHCS states that continuation of this staff is needed to address ongoing workload associated with DRA implementation and CHIPRA implementation.

Background. The DRA of 2005 changed eligibility requirements by requiring that any person who declares to be a citizen or national of the U.S. must provide acceptable documentation of citizenship and identity, unless they are in an exempt group.

In addition to citizenship and identity requirements, the DRA also mandated changes to Medi-Cal's treatment of asset for eligibility determination purposes. SB 483 (Kuehl), Statutes of 2008, enacted these changes.

The CHRIPA amends the DRA to provide that applicants that declare U.S. citizenship or declare to be a U.S. national must receive full-scope Medi-Cal while they are obtaining citizenship documents if they are otherwise eligible. In addition, as of January 1, 2010, CHIRPA gives the State the option to use electronic verification of a Medi-Cal enrollee's name, Social Security number and citizenship status by the federal Social Security Administration as an alternative means of complying with the DRA.

Subcommittee Staff Comment and Recommendation—Two Positions. Due to the fiscal crisis and vacancy levels at the DHCS, it is recommended to provide only two positions—one Governmental Program Analyst and one Staff Counsel—and deny two positions. A reduction of $218,000 ($109,000 General Fund) would be reflected by this action.

The Medi-Cal Eligibility branch has a total of 111 positions with eight vacancies as of February 1, 2010. The DHCS noted that one of the Governmental Program Analyst positions being requested in this proposal is presently vacant. The DHCS should be able to adjust priority workload within the Eligibility branch to address any remaining DRA citizenship issues, as well as any issues regarding CHIPRA.

Similarly, the DHCS Office of Legal Services has 124.5 positions, including support staff. Due to the amount of legal work to be completed, continuation of one Staff Counsel is recommended. Workload could be prioritized and redirected if needed to complete other legal work as required.

Further, though implementation has required much work by the DHCS, counties and advocacy groups, Subcommittee staff believes a considerable amount of the work has been completed. The DHCS has implemented a process using vital records that provides for citizenship verification for Medi-Cal enrollees born in California, and has issues several "All County Letters" to provide direction.

Questions. The Subcommittee has requested the DHCS to respond to the following questions.

1. DHCS, Please provide an update on key actions taken to implement the DRA requirements of 2005.
2. DHCS, Please provide a *brief* summary of the budget request and need for the positions.

4. Skilled Medical – Request for Backfill due to Federal Disallowance

Budget Issue. The DHCS is requesting an increase of $634,000 (General Fund) for the DHCS' Medical Review Branch to backfill for the loss of federal funds related to nurses, physicians and pharmacists due to a federal disallowance.

The DHCS states the federal Centers for Medicare and Medicaid Services (CMS) has disallowed their claim to obtain an enhanced federal match (25 percent to 75 percent) for certain medical related staff—nurses, physicians and pharmacists.

In their review, the federal CMS deemed that much of the work conducted by the Medical Review Branch was more administrative and not a medical service. Therefore, they agreed to only provide California its baseline federal match of 50 percent to 50 percent (General Fund to federal funds).

Therefore, the DHCS is requesting the General Fund augmentation in order to continue existing support within the Medical Review Branch. Without this backfill, the DHCS contends six positions may have to be eliminated.

Subcommittee Staff Comment and Recommendation—Deny Request. It is recommended to deny the request due to the fiscal crisis and the vacancy level within the Medical Review Branch.

Based on April 1, 2010 information, the Medical Review Branch has 714 positions, including support positions. Of these positions, 639 are filled, leaving 75 positions vacant. As such, the branch should be able to identify on-going savings to adjust for the $634,000 over time.

Further, this branch may also desire to review existing procedures to discern if they can be streamlined.

Questions. The Subcommittee has requested the DHCS to respond to the following questions.

1. DHCS, Please provide a *brief* summary of the budget request.

5. Local Educational Agency Medi-Cal Billing Option Program

Budget Issue. The DHCS is requesting an increase of $1.6 million ($819,000 from local entities and $819,000 federal funds) to support 14 new State positions (two-year limited-term) to perform financial oversight requirements of the "Local Educational Agency" (LEA) billing option provided under the Medi-Cal Program.

The DHCS states that two positions within the Fiscal Audits Branch are presently conducting audits of LEA billing option information but due to workload increases, these additional 14 positions are needed.

Full implementation of the LEA billing option was delayed by the DHCS for almost two-years due to claims and billing problems with the Medi-Cal Fiscal Intermediary (Electronic Data Systems). Because of these technical problems as well as the need to conduct more audits, the federal CMS has deferred $85 million in federal payments for the LEA billing option. The DHCS states that two-years worth of "Cost and Reimbursement Comparison Schedule" forms must be reviewed and validated by the DHCS before federal payment can be obtained.

In addition, the DHCS would utilize the positions to provide training and to improve existing procedures.

The requested staff is as follows:

- Ten Health Program Auditor III positions;
- Two Health Program Auditor IV positions; and
- Two Health Program Audit Manager positions.

As California's lead state agency for the Medicaid Program (Medi-Cal), the DHCS is required to perform financial oversight responsibilities for the LEA billing option to ensure that federal Medicaid funds are being appropriately expended. The DHCS states that if these positions are not provided, the LEA billing option may be in jeopardy and it is very likely the $85 million in deferred federal funds would not be obtained.

Background. There are 485 LEA providers participating in the LEA billion option. The LEA billing option provides the federal share of reimbursement for health assessment and treatment for Medi-Cal eligible children and family members within the school environment.

The billing option program provides early and periodic screening, diagnosis, and treatment services such as physical therapy, occupational therapy, speech and audiology, physician and nursing services, and school health aid services.

Subcommittee Staff Comment and Recommendation. An increase of 14 staff appears excessive yet the DHCS needs to process the forms and conduct the financial audits in order to ensure receipt of the $85 million in federal funds. The LEAs are at risk of losing the $85 million in reimbursement if action is not immediately taken. Therefore, it is recommended to approve the request. The Subcommittee had not received any comments from constituency groups on this issue prior to the release of this Agenda.

Questions. The Subcommittee has requested DHCS to respond to the following questions.

1. DHCS, Please provide a *brief* summary of the budget request.